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FISCAL IMPACT STATEMENT

LS 7643

BILL NUMBER: HB 1646

NOTE PREPARED: Feb 20, 2007

BILL AMENDED: Feb 20, 2007

SUBJECT: Renewable Fuels Tax Credits.

FIRST AUTHOR: Rep. Van Haaften

FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) *Sales Tax Deduction for E85*: This bill extends the retailer's Sales Tax collection discount for the sale of E85 through the year 2020.

Biodiesel Tax Credit: The bill also eliminates the termination date for and the statewide cap on a tax credit that is available for the retail sale of diesel with a biodiesel content of at least 2%. This bill changes the eligibility requirements for the tax credit and the formula for calculating the tax credit.

Ethanol Tax Credit: The bill also grants a tax credit for the retail sale of gasoline with an ethanol content of at least 10%.

Effective Date: July 1, 2007.

Explanation of State Expenditures: (Revised) This bill will increase expenditures for the Department of State Revenue (DOR). The DOR will have to amend forms, adopt rules and procedures, and update computer software related to the Sales Tax exemption changes in this bill. It is estimated that the DOR can implement these provisions through the use of existing staff and resources.

Explanation of State Revenues: *Summary of Revenue Impact*: This bill will cause an indeterminable decrease in state tax collections. The amount of the decrease in collections will ultimately depend on the number of retailers and distributors that qualify for the E85 and/or blended biodiesel tax credits and deductions in this bill.

Sales Tax Deduction for E85: This bill extends the retailer's Sales Tax collection discount for the sale of E85

through the year 2020, as well as providing a \$1 M *annual* statewide cap, rather than a \$2 M statewide cap for the life of the deduction (which under current law expires July 1, 2008). The amount of the decrease in Sales Tax collections as a result of the changes to this deductions are indeterminable. Since July 1, 2006, just over \$16,000 in Sales Tax deductions have been claimed for the sale of E85. The deduction was enacted in P.L. 122-2006, effective July 1, 2006.

Under current law the deduction is calculated at \$0.10 per gallon of E85 sold at retail by the retail merchant. The bill would leave this calculation in place, as is in 2007 through 2011. Beginning in 2012, the bill would decrease the deduction amount per gallon by \$0.01 each year until eventually in 2020 the deduction would be equal to \$0.01 per gallon of E85 sold at retail. The deduction would then expire at the end of 2020.

Biodiesel Tax Credit: This bill eliminates the statewide cap (\$1 M) on the Blended Biodiesel Tax Credit (BBTC) that is available for the retail sale of diesel with a biodiesel content of at least 2%. The bill also makes the BBTC permanent, changes the calculation, and the eligibility for the credit. The amount of the decrease in tax collections as a result of the changes to this credit are indeterminable. The impact will ultimately be determined by the number of taxpayers that qualify under the new eligibility requirements, and the amount of sales for which the taxpayer may claim the BBTC.

The BBTC is set to expire on December 31, 2010, but that expiration date was made irrelevant since the statewide cap of \$1 M for the life of the credit has been reached by one certification of the full amount awarded to one taxpayer. The BBTC may be applied to liability under the individual or corporate Adjusted Gross Income Tax, the Financial Institutions Tax, the Insurance Premiums Tax, and the Sales Tax.

Under current law, a taxpayer is entitled to a BBTC equal to \$0.01 multiplied by the total number of gallons of biodiesel (B100) sold in a taxable year.

The new calculation in this bill is a formula which first determines the number of B100 sold in relation to all diesel sold by the taxpayer. The formula would only allow the \$0.01 per gallon BBTC, if the retail merchant's B100 sales are at least 50% of the total sales of diesel made by the merchant. The bill also defines the types of motor vehicles which would allow the sale of B100 to qualify for the BBTC. Although the cap was reached for the BBTC and eliminated in this bill, it is unknown how significantly the total credits awarded will change due to the significant change in eligibility requirements for this credit.

Ethanol Tax Credit: The bill also grants an Ethanol Tax Credit (ETC) for the retail sale of gasoline with an ethanol content of at least 10%. The impact of this credit is indeterminable, and will ultimately depend upon the number of qualifying taxpayers, and the number of gallons of blended ethanol sold by each of those taxpayers.

The formula for the ETC requires the taxpayer to sum their sales of gallons of blended ethanol and blended diesel and compare this sum to the total number of the taxpayer's sales of gallons of all diesel and gasoline. The formula then requires the taxpayer to divide this percentage by the "Renewable Fuel Standard" as listed in the bill. The standard for 2009 is 0.10, and it increase by 0.01 each year until 2014 where it is applied thereafter at 0.15. The formula next requires that this amount be compared to a table which indexes the taxpayers amount and determines at what rate the ETC shall be allowed.

The result of this formula requires that in 2009, in order to receive any ETC, the taxpayer's sales of blended diesel and blended ethanol must make up approximately 11% of the taxpayer's total diesel and ethanol sales. In 2014 and thereafter, the taxpayer's sales of blended diesel and blended ethanol must make up

approximately 17% of the taxpayer's total diesel and ethanol sales. The ETC may be applied to liability under the individual or corporate Adjusted Gross Income Tax, the Financial Institutions Tax, the Insurance Premiums Tax, and the Sales Tax.

Background: Revenue from the corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund. The revenue from the individual AGI Tax is deposited in the state General Fund (86%) and the Property Tax Replacement Fund (14%). Sales Tax revenue is deposited in the: Property Tax Replacement Fund (50%), the state General Fund (49.192%), the Public Mass Transportation Fund (0.635%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Department of State Revenue.

Local Agencies Affected:

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